

The House Committee on State Institutions and Property offers the following substitute to SB 65:

A BILL TO BE ENTITLED  
AN ACT

To amend Article 2 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to the state-wide probation system, so as to change provisions relating to the sentencing and confinement of certain defendants in a probation detention center; to permit credit for time served in confinement while awaiting confinement in a probation detention center; to clarify certain provisions relating to the suspension of a probated sentence; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Article 2 of Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to the state-wide probation system, is amended by revising subsection (a) of Code Section 42-8-35.4, relating to confinement in a probation detention center, as follows:

"(a) In addition to any other terms and conditions of probation provided for in this article, the trial judge may require that a defendant convicted of a felony and sentenced to a period of not less than one year on probation or a defendant who has been previously sentenced to probation for a forcible misdemeanor as defined in paragraph (7) of Code Section 16-1-3 or a misdemeanor of a high and aggravated nature and has violated probation or other probation alternatives and is subsequently sentenced to a period of not less than one year on probation shall complete satisfactorily, as a condition of that probation, a program of confinement in a probation detention center. Probationers so sentenced will be required to serve a the period of confinement as specified in the court order, ~~which confinement period shall be computed from the date of initial confinement in the probation detention center.~~"

**SECTION 2.**

Said article is further amended by revising subsection (a) of Code Section 42-8-36, relating to the duty of a probationer to inform probation supervisor of residence or whereabouts, violations, and unpaid moneys, as follows:

"(a)(1) Any other provision of this article to the contrary notwithstanding, it shall be the duty of a probationer, as a condition of probation, to keep his or her probation supervisor informed as to his or her residence. Upon the recommendation of the probation supervisor, the court may also require, as a condition of probation and under such terms as the court deems advisable, that the probationer keep the probation supervisor informed as to his or her whereabouts. The failure of a probationer to report to his or her probation supervisor as directed or a return of non est inventus or other return to a warrant, for the violation of the terms and conditions of probation, that the probationer cannot be found in the county that appears from the records of the probation supervisor to be the probationer's county of residence shall automatically suspend the running of the probated sentence until the probationer shall personally report to the probation supervisor, is taken into custody in this state, or is otherwise available to the court; and such period of time shall not be included in computing creditable time served on probation or as any part of the time that the probationer was sentenced to serve. The effective date of the tolling of the sentence shall be the date that the officer returns the warrant showing non est inventus. Any officer authorized by law to issue or serve warrants may return the warrant for the absconded probationer showing non est inventus.

(2) In addition to the provisions of paragraph (1) of this subsection, if the probation supervisor submits ~~an~~ a sworn affidavit to the court stating that a probationer has ~~absconded and cannot be found~~ failed to report to his or her probation supervisor as directed, the running of the probated sentence shall be suspended effective on the date such affidavit is submitted to the court ~~and continuing~~. The tolling of the probationer's sentence shall continue until the probationer shall personally report to the probation supervisor, is taken into custody in this state, or is otherwise available to the court; and such period of time shall not be included in computing creditable time served on probation or as any part of the time that the probationer was sentenced to serve."

**SECTION 3.**

Section 1 of this Act shall become effective on July 1, 2009, and shall apply to probationers sentenced on or after such date. Section 2 of this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

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**SECTION 4.**

59 All laws and parts of laws in conflict with this Act are repealed.